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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,992	05/23/2000	Volker Schellenberger	GC500-2-US	9016

5100 7590 10/30/2003

GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
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EXAMINER	
GITOMER, RALPH J	

ART UNIT	PAPER NUMBER
1651	

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/554,992	Schellenberger et al.
Examiner	**Art Unit**
Ralph Gitomer	1651

-- ***The MAILING DATE of this communication appears on the cover sheet with the correspondence address*** --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Sep 5, 2003* .

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1, 3-8, and 10-14* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1, 3-8, and 10-14* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

The amendment received 9/5/2003 has been entered and claims 1, 3-8, 10-14 are currently pending in this application. The amended title is acceptable.

In view of the amendments to the claims and arguments presented, the rejections of record under 35 USC 103(a) and 112, first paragraph, are hereby withdrawn.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3-8, 10-14 are rejected under 35 U.S.C. 102(a) as being anticipated by Okkels.

Okkels (WO 97/07202) entitled ‘Lipolytic Enzymes’ teaches on page 159, stained swatches were heated in an oven, stored overnight at room temperature, and then different detergent compositions containing enzymes tested on the stained swatches in different concentrations.

Each of the features of the claims are taught by Okkels for the same function as claimed.

Applicant's arguments filed 9/5/2003 have been fully considered but they are not persuasive.

Applicants argue that Okkels does not teach a fixing step nor a smaller swatch.

It is the examiner's position that Okkels teaches fixing the stain by heating the dye prior to application, then heating the stained swatch in an oven for 25 minutes at 75 degrees C. This is an old method of fixing a stain. To fix a stain by any known method with the expected results is not patentable.

Regarding a ▒smaller swatch▒ as is newly claimed, the swatches of Okkels are described as 9 x 9 cm each. This size would appear to be encompassed by the claimed terms, in part, because such a swatch is smaller than most articles of clothing worn by adults and is certainly smaller than the standard size swatches of material as they are sold by manufacturers as seen in fabric stores; they are generally about 12 x 12 inches bound in books.

The selection of a size of swatch in the presently claimed method is a mere design choice and has no basis or effect upon the assay method. It would seem a destructive method of testing would be improved by the requirement of destroying a lesser quantity of test substance. For example, testing the Shroud of Turin by carbon dating, a destructive method, required a significant amount of material. If the same testing could have been performed with a ▒nano▒ quantity of material, it would have

been desirable. However, in the presently claimed method, the cost of each of the requisite substances, the detergent containing the enzyme, the stain, and the material, would not appear to be critical to the practicality or usefullness of the method. No criticality is seen in the selection of the size of swatch nor any likely change in test result. Should there be some advantage to the selection of size, an undisclosed advantage is given little or no weight. No advantage is seen in the specification as originally filed, see page 3 of the specification.

Claims 1, 3-8, 10-14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of the following applies in all occurrences.

The claims have been newly amended to include the limitation of ※providing a smaller swatch※ but the relative term is not understood in context because only a single swatch is seen in the claims as presented. One would not know if the claimed swatch were larger or smaller than any other swatch.

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (703) 308-0732. The examiner can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm. The examiner can also be reached on alternate Mondays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (703) 308-4743. The fax phone number for this Art Unit is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235. For 24 hour access to

patent application information 7 days per week, or for filing applications electronically, please visit our website at www.uspto.gov and click on the button ▒Patent Electronic Business Center▒ for more information.

Ralph Gitomer
Primary Examiner
Group 1651